



M. JODI RELL
GOVERNOR

STATE OF CONNECTICUT
EXECUTIVE CHAMBERS

Honorable Dennis Kucinich
Chairman
House Oversight Committee Subcommittee on Domestic Policy
2157 Rayburn
Washington, DC 20515

Honorable. Darrell Issa
Ranking Member
House Oversight Committee Subcommittee on Domestic Policy
B-350A Rayburn
Washington, DC 20515

Re: April 25, 2007, Hearing on FERC "Backstop Authority"

Dear Chairman Kucinich and Ranking Member Issa:

In states across the nation citizens are experiencing some of the most dizzying escalations in electricity costs in decades. Electricity prices in some regions have increased to the point where families are choosing between a vacation or electric heat and seniors will soon be choosing between air conditioning their homes on sweltering days or their medications. While some of the cost escalation can be linked to turmoil overseas and our over-reliance on foreign countries to supply our energy needs, there can be no doubt that insufficient transmission capacity all over the country is also partially to blame.

Today, you have asked for comment regarding the "back stop" authority granted to the Federal Regulatory Energy Committee (FERC) pursuant to the Energy Policy Act (Act) of 2005. The authority in question allows the FERC to effectively overrule state siting agency decisions under an unconscionably broad set of circumstances. While I appreciate the FERC's responsibility to ensure reliable and robust electric system infrastructure throughout the country, I am acutely concerned about the potential impact the new backstop authority could have on state siting processes and decisions.

As currently drafted, the FERC's backstop authority under the Act would be available in instances where (1) a state withholds approval of a transmission line permit application for more than one year and (2) a state requires mitigation of the project that the applicant believes makes the project economically infeasible. Both standards are ill defined and far too broad, creating a system where nearly every conceivable final result by a state siting agency can be overridden by appealing to the FERC.

I am submitting this testimony today, because the standards previously discussed are untenable and relegate state oversight of transmission location to a mere detour on the way to running roughshod over state siting policy. This current scheme does not require a review of the reasons for a denial, does not ascertain whether that denial was based on appropriate state law or review if there was a reasonable basis for the state siting agency's decision.

Some examples of potential concern involve interpretations of the backstop authority already issued by FERC. The states "withholding approval" provision has been interpreted by the FERC to include even those instances where a state has denied a transmission project in a timely and lawful manner. Under this interpretation, a state siting agency could act promptly and properly, yet suffer the consequences of Federal usurpation based on regulatory failure. More disturbing under the "economic feasibility" standard, even if the state siting authority has approved a project applying relevant state policies and laws, the applicant can appeal the matter to FERC on the generic grounds that the project is "economically infeasible" as approved. Both of these conditions create broad opportunities for a state's siting authority to be usurped and threaten to make the local process obsolete. What is truly the most unfair and insulting to state leaders is that this system allows an applicant to engage in forum shopping and simply sidestep an unfavorable state ruling by running to the FERC requesting Federal jurisdiction.

I am certain that this proposal came out of the justifiable concern that various regions in the United States were not taking their responsibility to upgrade and improve their networks seriously. I would even agree that the threat of aggressive federal action motivated many regions to make long needed upgrades and repairs that might not have happened in the absence of federal action. However, I would argue that we have reached a point where it is important to pause and review the successes in various regions and to evaluate whether or not such an incredible usurpation of state power is necessary to achieve further progress.

I would like to share where Connecticut's progress has taken us. Today, Connecticut is working successfully within the established regional framework through ISO New England to get needed transmission investments in place to address its congestion-related reliability and economic issues. The Southwest Connecticut Reliability Project (Project), a significant transmission upgrade in Connecticut, is moving forward. Phase I of the project has been completed ahead of schedule and under budget. Construction of Phase II is underway, with an anticipated completion date sometime in 2009. Once completed, the Project will add approximately 1,300 megawatts of transfer capability in the state's most critical load pocket. In addition, Connecticut electric utilities and policy-makers are working with ISO New England to address east-to-west transmission reliability problems as part of the New England East-West Solutions project.

Connecticut has also taken proactive steps to solve its need for long-term capacity. In 2005, Connecticut passed the Energy Independence Act (EIA), which sought to implement additional steps to foster the development of market solutions to the critical electric system needs. The EIA allows the State and its utilities to provide incentives and

capacity contracts for distributed resources and conventional supply resources that can mitigate the cost and reliability problems transmission congestion creates. To date, the Department of Public Utility Control (DPUC) has received twenty applications under the Request for Proposals (RFP) for capacity and the bidder selection process is expected to be completed in the next several weeks. The DPUC is also in the process of awarding capital grants and other financial incentives for customer-side distributed generation resources to further assist the state in meeting its capacity requirements. Connecticut is also a leader in the region in the use of demand response as an additional instrument to further reduce peaking energy needs. Connecticut will continue to employ a variety of new and innovative tools to create a multi-faceted approach to dealing with the electric energy needs of our state.

Connecticut has and continues to put a great deal of effort into addressing its electric infrastructure and resource needs. This new FERC backstop authority unnecessarily threatens our state's ability to determine the best solutions to fulfilling those needs locally. Simply put, the FERC must renounce claiming jurisdiction where a state denies siting approval for valid reasons under state law, such as the protection of environmental resources, the health and safety of its citizens, or if better alternatives are identified through the process.

We all recognize the larger issue of the need for the FERC to have the ability to ensure that needed projects are not unduly delayed and ultimately get built. However, FERC's broad interpretation of the electric transmission siting rule, especially with regard to the "withholding" provision, unnecessarily threatens and potentially undermines state siting processes.

I appreciate your consideration of these important issues. I would be happy to answer any follow up questions you or your Committee members may have.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. Jodi Rell". The signature is fluid and cursive, with the first name "M." and last name "Rell" clearly distinguishable.

M. Jodi Rell
Governor